

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
WINCHESTER DIVISION

PEARL'S CAFE, LLC d/b/a
PEARL'S CAFE,

Plaintiff,

v.

CERTAIN UNDERWRITERS AT
LLOYD'S, LONDON,

Defendants.

CIVIL ACTION NO.: 4:10-cv-90
HSM/SKL

NOTICE OF REMOVAL

COME NOW Defendants, those Certain Underwriters at Lloyd's, London (hereinafter "Underwriters"), by and through undersigned counsel, and pursuant to 28 U.S.C. §§ 1441 *et seq.*, and hereby file this Notice of Removal, as follows:

I.

Plaintiff Pearl's Cafe LLC d/b/a Pearl's Cafe ("Plaintiff") filed its Complaint in the Chancery Court for Franklin County, Tennessee on October 29, 2010. The case was styled: *Pearl's Cafe, LLC d/b/a Pearl's Cafe v. Underwriters at Lloyd's, London*, Docket Number 19192. (*True and correct copies of all process, pleadings, and orders served upon Defendants in that action are attached hereto.*)

II.

Plaintiff filed its Complaint and served it on Underwriters via service on the Department of Commerce and Insurance on November 8, 2010. Underwriters has not yet responded to the Complaint.

III.

In its Complaint, Plaintiff alleges a loss to two of its buildings, located in Franklin County, Tennessee, as a result of a fire occurring on October 30, 2008. Plaintiff alleges that Underwriters breached their insurance contract with Plaintiff by failing to pay \$279,539.37 owed to Plaintiff under the business income and extra expense coverage provided by the policy. (Complaint, ¶¶ 3 & 5). Plaintiff also alleges violations of the Tennessee Unfair Claims Settlement Practices Act, T.C.A. § 56-7-105. (Complaint, ¶ 4). Plaintiff seeks \$279,539.37 for unpaid business income and extra expense claims, interest, 25% penalties provided by T.C.A. § 56-7-105, and attorneys' fees and costs. (Complaint, ¶ 5).

IV.

Underwriters subscribes to Certificate No. TN1426, a Commercial Property policy for the period January 27, 2008, to January 27, 2009, (previously and hereinafter "Policy") issued to the Plaintiff. The Policy is on a Replacement Cost Basis, has an 80% co-insurance requirement, and has limits of \$300,000 on Building 1, \$150,000 on Building 2, \$160,000 on Building 3 and \$58,689 on Building 4. The Policy also has limits of \$300,000 for Business Income with Extra Expenses on Building 1. Plaintiff seeks from Defendant damages in excess of \$75,000, exclusive of interest and costs. Consequently, the amount in controversy requirement of 28 U.S.C. 1332(a) has been satisfied.

V.

Upon information and belief, Plaintiff Pearl's Cafe, LLC d/b/a Pearl's Cafe is a citizen of Tennessee, as it is a Limited Liability Company and all Members are citizens of the State of Tennessee.

VI.

Certain Underwriters at Lloyd's, London, are self-regulating entities operating as an insurance market in the United Kingdom, organized under the laws of the United Kingdom and with their principal place of business in the United Kingdom. The lead Underwriters are citizens of the United Kingdom. None of the Underwriters subscribing to Policy No. TN1426 was a citizen of Tennessee at any time relevant to this matter, including the date on which the Complaint was filed.

VII.

As there is complete diversity among the parties, and there is a sufficient amount in controversy, federal jurisdiction exists pursuant to 28 U.S.C. § 1332, and this matter may be removed pursuant to 28 U.S.C. § 1441(a), *et seq.* Under 28 U.S.C. § 1446(b), this Notice of Removal is timely filed, as it is filed within thirty (30) days of the date on which Underwriters was served with Plaintiff's Complaint.

VIII.

Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Plaintiff's counsel and filed in the Chancery Court for Franklin County, Tennessee.

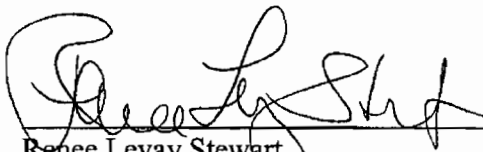
IX.

Pursuant to 28 U.S.C. § 1446(a), Underwriters has complied with all prerequisites for filing this Notice, including attachment hereto of all process, pleadings, and orders served upon defendants.

X.

WHEREFORE, Defendant prays that the action now pending in the Chancery Court for Franklin County, Tennessee, be removed therefrom to this Court.

This 8th day of December 2010.



Renee Levay Stewart
Tennessee Bar No. 018768

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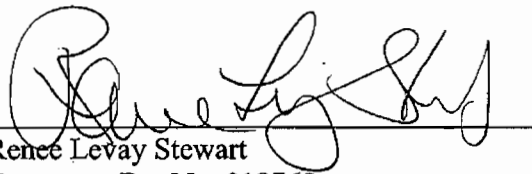
CIVIL ACTION NO.:

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for all parties in this action with a copy of the foregoing **NOTICE OF REMOVAL** by U.S. Mail Postage prepaid upon the following:

Marvin Berke, Esq.
Valerie W. Epstein, Esq.
Berke, Berke & Berke
420 Frazier Avenue
P.O. Box 4747
Chattanooga, TN 37405

This 8th day of December 2010.


Renee Levay Stewart
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